

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 180.3
Title 14, California Code of Regulations
Re: Restricted Access Fishery

- I. Date of Initial Statement of Reasons: February 20, 2004

- ## II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: | March 5, 2004 |
| | | Location: | Redding |
| (b) | Discussion Hearing: | Date: | April 1, 2004 |
| | | Location: | Sacramento |
| (c) | Adoption Hearing: | Date: | May 4, 2004 |
| | | Location: | San Diego |

- ### III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Commission's restricted access fishery policy states that, "Each restricted access program that is not based on harvest rights shall have a capacity goal." The department anticipated that 13 Tier 2 permits would be issued at the current capacity of 2500 pounds in any permit year. Only four permits have been issued under current Tier 2 requirements, thus, increasing the allotment to 5000 will not negatively impact the resource.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section 8591, Fish and Game Code.

Reference: Sections 8101, 8590-8595, 9000, 9001 and 9015, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change:
None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public hearings were held prior to the Notice meeting. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Less restrictive capacity goals would be an alternative to the current regulation. If the fishing effort ultimately increases, harvest levels may not be sustainable. This thought was rejected to maintain the long-term viability of the fishery.

Raising the capacity goal from 2500 to 5000 would be an option. The department anticipated that 13 permits would be issued at the current capacity of 2500 pounds in any permit year. Only four permits have been issued under current Tier 2 requirements, thus, increasing the allotment to 5000 will not be a resource issue. It will, however, be an economic benefit to those who currently hold a valid Tier 2 permit.

(b) No Change Alternative:

The economic viability of those with a long-term vested interest in this fishery may decrease. This is not the desired outcome.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. By raising the capacity goal to 5000, there will be a positive economic impact to those affected.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

Under current regulations, Section 180.3, Title 14, CAC, currently holds the maximum harvest for those with a Tier 2 permit at 2500 pounds of spot prawns landed in a permit year.

The proposed regulatory changes raise the maximum harvest level from 2500 to 10000. The department anticipated that 13 permits would be issued and the maximum allotment of 2500 pounds in any permit year would be necessary to limit harvest. Only four permits have been issued under current Tier 2 requirements. In addition, the spot prawn trawl fishery has been closed; thereby, reducing the overall annual harvest of spot prawns. Thus, increasing the allotment to 10000 pounds will not negatively impact the resource. It will, however, be an economic benefit to those who currently hold a valid Tier 2 permit.

Minor editorial changes are also proposed to improve the clarity and consistency of the regulations.